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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/690,821	10/23/2003	Kee-Hung Lai	P69237US0	5436

7590 08/15/2005

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400 SEVENTH STREET, N.W.  
WASHINGTON, DC 20004

EXAMINER
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BARBEE, MANUEL L

ART UNIT	PAPER NUMBER
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2857

DATE MAILED: 08/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

AK

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/690,821	LAI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Manuel L. Barbee	2857	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 June 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☒ Claim(s) 10-12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                         |                                                                             |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____                                                |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____                                                             | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Bush, Jr. (US Patent No. 6,486,899).

With regard to a plurality of measurement items divided into service effectiveness for shippers, service effectiveness for consignees and operations efficiency for transport logistics providers, as shown in claims 1 and 5, Bush, Jr. teaches a system for displaying logistics information that displays data for several performance parameters in a logistics system (col. 2, lines 8-22; col. 7, lines 31-54; col. 8, lines 10-38). Customer service and average transit time would be examples of service effectiveness for shippers and consignees and profit margins would be an example of operations efficiency for transport logistics providers. With regard to evaluating performance, as shown in claim 5, Bush, Jr. teaches evaluating performance and transportation and distribution planning using the measurements (col. 2, lines 8-15; col. 2, lines 43-54).

With regard to reliability and responsiveness, as shown in claims 2 and 6, Bush, Jr. teaches measuring percentage of on-time deliveries and customer service levels,

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respectively (col. 7, lines 45-51). With regard to cost and asset aspects, as shown in claims 3 and 7, Bush, Jr. teaches measuring profit margins and capacity information, respectively (col. 8, lines 14-21). With regard to at least one of the items in claim 4, Bush, Jr. teaches percentage of on deliveries which corresponds to providing services at the time promised to the shippers (col. 7, lines 45-51).

With regard to operations efficiency parameters and service effectiveness parameters for shipper, consignee and transport logistics provider, as shown in claim 8, Bush, Jr. teaches a system for displaying logistics information that displays data for several performance parameters in a logistics system (col. 2, lines 8-22; col. 7, lines 31-54; col. 8, lines 10-38). Customer service and average transit time would be examples of service effectiveness for shippers and consignees and profit margins would be an example of operations efficiency for transport logistics providers. With regard to measuring and evaluating performance on a supply chain-wide basis, as shown in claim 9, Bush, Jr. teaches supply chain management (col. 2, lines 43-54).

#### ***Allowable Subject Matter***

3. Claims 10-12 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

4. Applicant's arguments filed 13 June 2005 have been fully considered but they are not persuasive. Applicant states that Bush does not disclose any attempt to actually provide an evaluation instrument. Applicant states that Bush, Jr. discloses a display

system where it is assumed that a system planner provides all the evaluation steps. Claim 5 contains limitations for "evaluating performance based on an evaluation of performance of said measurement items in said instrument." Bush, Jr. teaches evaluating performance and transportation and distribution planning using the measurements (col. 2, lines 8-15; col. 2, lines 43-54). Nothing in the claim language prevents the evaluation step from being carried out by the system planner. Further, Bush, Jr. teaches that the system for managing a supply chain may be a part of a system used for transportation or distribution planning based on past performance of the supply chain (col. 3, lines 11-53).

### ***Conclusion***

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

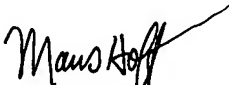
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Manuel L. Barbee whose telephone number is 571-272-2212. The examiner can normally be reached on Monday-Friday from 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on 571-272-2216. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mlb  
August 9, 2005

  
MARC S. HOFF  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800